

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

09/914765

IN RE APPLICATION OF:

Preben CHRISTENSEN *et al.*

Group Art Unit: TO BE ASSIGNED

SERIAL NO.: NEW

Examiner: TO BE ASSIGNED

FILED: HEREWITH

FOR: DETERMINATION OF SPERM CONCENTRATION  
AND VIABILITY FOR ARTIFICIAL INSEMINATION

5/a  
A.Q.  
1/22/02

**PRELIMINARY AMENDMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Prior to the examination of the above-identified patent application, please amend the application as follows:

**IN THE CLAIMS:**

Please amend claims 4-7, 9, 11-14, 16, 20, 22-25, 28, 30-32, 34-37, 39 and 41-44. A clean version of the amended claims is set forth below. In accordance with 37 C.F.R. § 1.121(b), also enclosed, in Appendix A, is a marked-up version of these claims to show amendments made in them.

**CLAIMS**

4. A method according to claim 1, wherein the selective staining comprises a staining which stains all sperm cells combined with a staining which selectively stains dead cells.
5. A method according to claim 1, wherein any dilution of the sample has been performed using a diluent which sustains viability of the sperm cells during the determination.
6. A method according to claim 1, wherein the selective staining is performed using one or more fluorochromes resulting in fluorescent qualities being conferred to live sperm cells and dead sperm cells, the fluorescent quality or qualities of live cells being distinguishable, by the detection means, from the fluorescent quality or qualities of dead sperm cells, and the determination is performed by selective counting of cells of each fluorescent quality.
7. A method according to claim 1, wherein the proportion of dying sperm cells is also determined, the selective staining being adapted to allow distinction, by the detection means,